

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF MAC ANDRES CHAMBERS

VSB Docket Numbers: 03-080-0419

03-080-1249

03-080-3704

04-080-0551

ORDER

This matter came on the 10th day of June, 2004, to be heard on the Agreed Disposition of the Virginia State Bar and the Respondent, Mac Andres Chambers, Esquire, based on the Certifications of Eighth District Subcommittees. The Agreed Disposition was considered by a duly convened panel of the Virginia State Bar Disciplinary Board consisting of William C. Boyce, Jr., Esquire, Robert E. Eicher, Esquire, Glenn M. Hodge, Esquire, Werner H. Quasebarth, lay member and Karen Gould, Esquire, presiding.

Marian L. Beckett, Esquire, representing the Bar, and the Respondent, Mac Andres Chambers, Esquire, appearing *pro se*, presented an endorsed Agreed Disposition, dated June 7, 2004, reflecting the terms of the Agreed Disposition. Theresa S. Griffith, Chandler & Halasz, RPR, P.O. Box 9349, Richmond, VA 23227, (804) 730-1222, was the court reporter of the proceeding

Having considered the Certification and the Agreed Disposition, it is the decision of the Board that the Agreed Disposition be accepted, and the Virginia State Bar Disciplinary Board finds by clear and convincing evidence as follows:

1. At all times relevant hereto, the Respondent, Mac Chambers, Esquire (hereinafter "Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.

**As to Docket No. 03-080-0419**

2. For reasons stated in the Agreed Disposition and at oral argument presented by Bar Counsel, the Board finds by clear and convincing evidence that the matter referred to as VSB Docket No. 03-080-0419 should be dismissed with prejudice.

**As to VSB Docket No. 03-080-1249**

3. Complainant Lewis B. Rotenberry, Jr. retained the Respondent on or about April 5, 2002, to assist him in obtaining visitation rights with his daughter in Florida, and to seek a modification in child support to reflect his then income.

4. The Complainant paid the Respondent \$750.00 in advance.

5. As of October 25, 2002, the Respondent had not performed any work on the Complainant's behalf.

6. On January 21, January 27, January 31 and February 4, 2003, Virginia State Bar investigator Clyde K. Venable attempted to call the Respondent and each time received a recorded message stating "This mailbox is full."

7. On January 29, 2003, investigator Venable went to the Respondent's residence, did not find the Respondent there, and left a note requesting the Respondent call him.

8. The Respondent failed to contact the investigator as requested.

**As to VSB Docket No. 03-080-3704**

9. Complainant Joseph Davis (hereinafter the Complainant) injured his leg on July 15, 1999, while working with a chain saw. He subsequently hired the Respondent to prosecute a personal injury action on his behalf. The Respondent filed a Motion for Judgment in the Circuit Court for Bedford County on July 16, 2001.

10. On August 8, 2001, the Defendants mailed the Respondent discovery including

Defendants' First Set of Interrogatories and First Request for Production of Documents. On August 9, 2001, counsel for the Defendants filed a Demurrer and Grounds of Defense.

11. Following the filing of the Motion for Judgment, the Respondent took no further action in the matter. The discovery propounded by the Defendants was never answered.

12. Numerous requests by the Complainant for information regarding the status of his case went unanswered by the Respondent. The Complainant filed his complaint with the Virginia State Bar on May 9, 2003.

13. On June 20, 2003, Assistant Bar Counsel Claude V. Worrell, II sent a letter and a copy of the complaint to the Respondent informing him that the Bar was conducting a preliminary investigation of the matter. The June 20<sup>th</sup> correspondence stated, *inter alia*, underlined and in bold, the following directive: "please review the complaint and provide this office with a written answer, including an original and one copy of your response and all attached exhibits within twenty-one (21) days of the date of this letter." In addition, the June 20<sup>th</sup> correspondence advised the Respondent that failure to provide a written answer would result in the filing of the case with a district committee for further action.

14. As of this date, the Respondent has made no written or other response to the Bar's June 20, 2003 letter. On July 21, 2003, Bar Counsel directed a letter of that date to the Respondent, informing him that the matter had been referred to the Eighth District Committee for a more detailed investigation. The matter was subsequently referred to Virginia State Bar investigator Clyde K. Venable.

15. Between August 18, 2003 and January 9, 2004, the Respondent failed to return eight (8) telephone messages left by investigator Venable.

16. On January 12, 2004, Assistant Bar Counsel Marian Beckett caused a subpoena to be served on the Respondent requesting the complete file relating to the Complainant's law case be delivered to VSB investigator Venable.

17. While the investigator was on vacation, the Respondent left the file unattended on the porch of Mr. Venable's home, indicating that the file may be incomplete, as some of the documentation may have been lost in a flood.

18. The action in the County of Bedford, Law No.CL 01010154-00, is set to be purged as of August 9, 2004, pursuant to the court's policy of case removal after three years of inactivity.

**As to VSB Docket No. 04-080-0551**

19. Complainant Timothy M. Barrett, Esquire, filed the complaint in this matter due to his inability to obtain his client's file from her former attorney, the Respondent.

20. Marjorie Shears Moore retained the Respondent following a motor vehicle accident that occurred on September 30, 1996, to file and prosecute a personal injury action on her behalf. As a result of the injuries sustained in the accident, Ms. Moore had in excess of forty (40) health care providers and voluminous medical records. It is not known whether a Motion for Judgment was ever filed in the case.

21. Prior to the fall of 2002, Ms. Moore relocated to the Virginia Beach, Virginia area. On October 14, 2002, she terminated in writing the Respondent's representation because of his failure to prosecute the case. Also on October 14, 2002, Ms. Moore's new attorney, Complainant Timothy Barrett, Esquire, informed the Respondent in writing that he had been retained by Ms. Moore, and requested that the Respondent forward the entire file by overnight delivery. A portion of the file was shipped on October 14, 2002.

22. Complainant filed his complaint on August 25, 2003, due to the inability to obtain the entire file from Mr. Chambers. The items missing included comprehensive medical records in excess of 1,000 pages.

23. On September 17, 2003, Assistant Bar counsel Marian L. Beckett sent a letter and a copy of the complaint to the Respondent informing him that the Bar was conducting a preliminary investigation of the matter. The September 17th correspondence stated, *inter alia*, in bold, the following directive: "please review the complaint and provide this office with a written answer, including an original and one copy of your response and all attached exhibits within twenty-one (21) days of the date of this letter." In addition, the September 17<sup>th</sup> correspondence advised the Respondent that failure to provide a written answer would result in the filing of the case with a district committee for further action.

24. As of this date, the Respondent has made no written or other response to the Bar's September 17, 2003 letter. On September 17<sup>th</sup> the matter was referred to the Eighth District Committee for a more detailed investigation, and the case was subsequently assigned to Virginia State Bar investigator Clyde K. Venable.

25. Between October 15, 2003 and January 8, 2004, numerous attempts by investigator Venable to contact the Respondent by telephone, in person, and via correspondence yielded no response.

26. On January 12, 2004 Assistant Bar Counsel Marian Beckett caused a subpoena to be served on the Respondent requesting the complete file relating to the Complainant's law case be delivered to VSB investigator Venable.

27. In February of 2004, while the investigator was on vacation, the Respondent left the

file unattended on the porch of Mr. Venable's home.

28. Upon receipt of a medical release form signed by Ms. Moore, Investigator Venable forwarded the files in his possession to the Complainant on February 26, 2004.

29. Mitigating factors recognized by the ABA include the following:

B. Absence of a dishonest or selfish motive.

C. Personal or emotional problems.

H. Physical or mental disability or impairment.

30. Aggravating factors recognized by the ABA include the following:

A. Prior disciplinary offenses.

C. A pattern of misconduct.

D. Multiple offenses.

E. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary authority.

**B. STIPULATION OF MISCONDUCT**

The aforementioned conduct on the part of the Respondent constitutes a violation of the following Virginia Rules of Professional Conduct:

**RULE 1.1 Competence**

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

**RULE 1.3 Diligence**

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

(b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under

Rule 1.16.

- (c) A lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship, except as required or permitted under Rule 1.6 and Rule 3.3.

#### **RULE 1.4 Communication**

- (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
- (c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

#### **RULE 1.16 Declining or Terminating Representation**

- (e) All original, client-furnished documents and any originals of legal instruments or official documents which are in the lawyer's possession (wills, corporate minutes, etc.) are the property of the client and shall be returned to the client upon request, whether or not the client has paid the fees and costs owed the lawyer. If the lawyer wants to keep a copy of such original documents, the lawyer must incur the cost of duplication. Upon request, the client must also be provided copies of the following documents from the lawyer's file, whether or not the client has paid the fees and costs owed the lawyer: lawyer/client and lawyer/third-party communications; the lawyer's copies of client-furnished documents (unless the originals have been returned to the client pursuant to this paragraph); pleadings and discovery responses; working and final drafts of legal instruments, official documents, investigative reports, legal memoranda, and other attorney work product documents prepared for the client in the course of the representation; research materials; and bills previously submitted to the client. Although the lawyer may bill and seek to collect from the client the costs associated with making a copy of these materials, the lawyer may not use the client's refusal to pay for such materials as a basis to refuse the client's request. The lawyer, however, is not required under this Rule to provide the client copies of billing records and documents intended only for internal use, such as memoranda prepared by the lawyer discussing conflicts of interest, staffing considerations, or difficulties arising from the lawyer/client relationship.

#### **RULE 8.1 Bar Admission And Disciplinary Matters**

An applicant for admission to the bar, or a lawyer in connection with a bar admission application, in connection with any certification required to be filed as a condition of

maintaining or renewing a license to practice law, in connection with a disciplinary matter, shall not:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

#### **RULE 8.4 Misconduct**

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

Upon consideration whereof, it is hereby ORDERED that the Respondent shall receive a SUSPENSION OF ONE (1) YEAR of his license to practice law in the Commonwealth of Virginia, to commence on the 1st day of September, 2004.

It is further Ordered that from the date of this hearing on June 10, 2004 up to and including August 31, 2004, the Respondent shall not accept additional matters or cases for existing clients, and shall not accept matters or cases for new clients. The Respondent is permitted to complete the representation on pending matters for existing clients until the suspension begins on September 1, 2004.

Pursuant to Part Six, § IV, ¶ 13 (B)(8)(c) of the Rules of the Supreme Court, the Clerk of the Disciplinary System shall assess costs against the Respondent.

It is further ORDERED that a copy *a teste* of this Order shall be mailed by Certified Mail, Return Receipt Requested, to the Respondent, at his last address of record with the Virginia State Bar, 3158 Berry Lane, SW, Apartment 84, Roanoke, VA 24018 and by first class, regular mail, to Marian L. Beckett, Assistant Bar Counsel, 100 N. Pitt Street, Suite 310,

Alexandria, VA 22314.

ENTERED this \_\_\_\_\_ day of June, 2004.

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Karen A. Gould, First Vice Chair  
Virginia State Bar Disciplinary Board